

REMARKS

Claim 3 remains pending in the present application. Claims 17-37 have been cancelled. Claim 3 has been amended. Basis for the amendments can be found throughout the specification, claims and drawings as originally filed.

REJECTION UNDER 35 U.S.C. § 103

Claims 3 and 23-35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ichimura (U.S. Pat. No. 6,501,968) in view of Nonogaki (U.S. Pat. No. 6,625,478 B1) and in further view of Cathey, et al. (U.S. Pat. No. 6,201,977). Claims 17-18, 22 and 36-37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ichimura (U.S. Pat. No. 6,501,968) in view of Cathey, et al. (U.S. Pat. No. 6,201,977). Claims 19-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ichimura (U.S. Pat. No. 6,501,968) in view of Cathey, et al. (U.S. Pat. No. 6,201,977) as applied to Claim 18 above, and further in view of Nonogaki (U.S. Pat. No. 6,625,478 B1). Applicant respectfully traverses this rejection. Claim 3 has been amended to include the limitations of Claim 23 which define an outer terminal for connecting an earphone and means for terminating operation of the music sounds producing function while the music sounds are being outputted through the earphone when the battery capacity becomes lower than the threshold level to thereby maintain the telephone function; and means for informing a user through the earphone that the music sounds producing function has been terminated.

Ichimura does not teach means for terminating operation of the music sounds (function) while the music sounds are being output through the earphone when the battery becomes low to thereby maintain the telephone function.

Ichimura, as shown in Figures 1 and 2, monitors the battery level (steps S105 and S123). If the battery level is low, Ichimura reports this information to the user (steps S108 and S124). Ichimura does not teach terminating the operation, it teaches to ask the user if the operation should be terminated. The user then decides if the operation should be terminated (S110 and S126). Only if the user makes the decision to terminate the operation does Ichimura proceed to the Additional Function Unit Restriction Mode (steps S113 and S128) which is shown in Figure 5.

Because the user makes the decision to terminate the operation (steps S110 and S126), Ichimura does not disclose, teach or suggest means for informing a user through the earphone that the music sounds producing function has been terminated. To include this means for informing the user would be redundant in Ichimura since the user is the one who instructed the termination of the operation. Because the function is automatically terminated in the present invention, there is a need to notify the user of the termination by the mobile phone.

This notification is done through the earphone which is an external earphone different from the speaker. The Examiner indicated that a typical speaker in a cellular phone is an earphone. The specification on page 12, lines 13-15 states that it is possible to output the warning sounds from a speaker, such as a speaker for outputting a call-arrival melody. This description along with an outer terminal for connecting the

earphone clearly defines the earphone of the present invention as being an external earphone separate from the typical speaker of the cell phone.

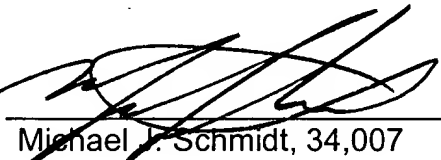
Thus, Applicant believes Claim 3, as amended with the limitations of Claim 23, patentably distinguishes over the art of record. Claims 17-37 have been cancelled. Reconsideration of the rejection is respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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